

# HOUSE BILL REPORT

## ESSB 5415

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### As Passed House - Amended:

April 15, 2005

**Title:** An act relating to making loans under chapter 31.45 RCW to military borrowers.

**Brief Description:** Making loans under chapter 31.45 RCW to military borrowers.

**Sponsors:** By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley and Kline).

### Brief History:

#### Committee Activity:

Financial Institutions & Insurance: 3/24/05, 3/31/05 [DPA].

#### Floor Activity:

Passed House - Amended: 4/15/05, 66-28.

### Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Defines a "military borrower" to include any active duty member of the armed forces of the United States and any member of the National Guard or the reserves of the armed forces of the United States who has been called to active duty.
- Prohibits a licensee from garnishing any wages or salary paid for service in the armed forces or contacting the military chain of command of a military borrower in an effort to collect a delinquent small loan.
- Prohibits a licensee from making a loan to a known military borrower when the military borrower's commander has notified the licensee in writing that the specific location is designated off-limits to military personnel under their command.
- Requires a licensee to defer all collection activity against a military borrower who has been deployed to a combat or combat support posting for the duration of the posting.
- Requires a licensee to honor any repayment agreement between the licensee and any military borrower.

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## HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** Do pass as amended. Signed by 11 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, O'Brien, Santos, Serben, Simpson, Strow and Williams.

**Staff:** Jon Hedegard (786-7127).

**Background:**

The business of check cashing and selling is regulated by the Department of Financial Institutions (DFI) pursuant to the Check Cashers and Sellers Act (Act). One of the common practices of such businesses is the issuance of what have become known as "payday loans." The term "payday loan" refers to a type of short-term, high interest, unsecured loan that is typically offered to consumers by a business outlet offering check cashing services. The Act contains provisions for the licensing and regulation of businesses offering services related to check cashing and the selling of money orders, drafts, checks, and other commercial paper.

In a typical payday loan transaction, the consumer writes the lender a post dated check and, in return, the lender provides a lesser amount of cash to the consumer after subtracting interest and fees. Following this initial transaction, the lender holds the check for a specified period, during which the consumer has the option of either redeeming the check by paying the face amount to the lender or allowing the lender to cash the check after the loan period has expired.

Under the Act, licensees must maintain business books, accounts, and records as the DFI may require. The books and accounts must be maintained for at least two years after a transaction. The DFI also has statutory authority to examine books, accounts, records, and files, or other information of licensees and persons that the agency has reason to believe is engaging in the business governed by Chapter 31.45 RCW. The Act also contains a provision requiring that licensees file financial statements within 105 days of the calendar or fiscal year. The DFI is required to adopt rules prescribing the form and content of the reports. The DFI may require additional reporting "as is necessary for the director to ensure compliance" with Chapter 31.45 RCW.

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**Summary of Amended Bill:**

Defines a "military borrower" to include any active duty member of the armed forces of the United States and any member of the National Guard or the reserves of the armed forces of the United States who has been called to active duty.

A licensee shall not:

- garnish any wages or salary paid for service in the armed forces when collecting any delinquent small loan;
- contact the military chain of command of a military borrower in an effort to collect a delinquent small loan; and

- make a loan from a specific location to a person that the licensee knows is a military borrower when the military borrower's commander has notified the licensee in writing that the specific location is designated off-limits to military personnel under their command.

A licensee must:

- defer all collection activity against a military borrower who has been deployed to a combat or combat support posting for the duration of the posting; and
- honor the terms of any repayment agreement between the licensee and any military borrower, including any repayment agreement negotiated through military counselors or third party credit counselors.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The bill offers some minimal additional protections. It is a step forward but does not help the general public. It also does not help if the spouse of a military borrower is taking out the loan. It is important to help out the military personnel but they are only a small percentage of all borrowers. The bill ought to go further and protect all citizens. This codifies the military best practices. Not all of the industry follows these best practices. A commander can only place a site off-limits for personnel under his or her command. It would be hard for a commander to justify making an entire industry or locales outside of the area off-limits to personnel. The bill doesn't address spouses of military personnel but that would be very difficult to enforce.

**Testimony Against:** None.

**Persons Testifying:** Dennis Brassford, Money Tree Incorporated; William Terry, Community Financial Services Association; and Robert Pregulman, Washington State Public Interest Research Group.

**Persons Signed In To Testify But Not Testifying:** None.